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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Public Programs Branch

RESOLUTION T-16897
February 10, 2005

RESOLUTION

Resolution T-16897. Citizens Telecommunications Company of California) (U-1024-C). Request to (1) implement a permanent California High Cost Fund-B (CHCF-B) surcredit; and (2) true up of temporary catch-up CHCF-B surcredit in compliance with Decision 98-09-039.

By Advice Letter No. 722, filed October 24, 2001, and Supplement A, filed April 13, 2004.

By Advice Letter No. 732, filed November 29, 2001, and Supplements A, B, and C, filed December 10, 2001, August 1, 2002, and April 13, 2004, respectively.

Summary

On October 24, 2001, Citizens Telecommunications Company of California (Citizens) filed Advice Letter (AL) No. 722 to make its provisional California High Cost Fund-B (CHCF-B) surcredit rate permanent. This resolution approves Citizens' AL No. 722 to implement a permanent CHCF-B surcredit rate of 3.63%. The surcredit rate will apply permanently on all intrastate billings, except residential basic service, contract services, and coin-sent paid calls.

Additionally, on November 30, 2001, Citizens filed AL No. 732 to true up its temporary CHCF-B catch-up surcredit for the period July through September 2001. In AL No. 732, Citizens proposes to apply a surcharge on customers' billings to recover an over payment to customers during the three-month temporary catch-up period. This resolution approves Citizens' request to recover the over refunded amount of \$80,181 (interest included) by implementing a surcharge rate of 1.72% that will apply for one month on all intrastate billings, except residential basic service, contract services, and coin-sent paid calls, commencing on the first day of the month following the effective date of this resolution.

ALTERNATE DRAFT

Background

Decision (D.) 96-10-066

In D.96-10-066, the Commission established the CHCF-B program to provide a universal service subsidy to Citizens and the other incumbent local exchange carriers (ILECs)¹ for providing basic local telephone service to residential customers in high-cost areas at affordable rates. The purpose of the CHCF-B program is to replace the implicit subsidies used to support universal service with an explicit funding mechanism. The CHCF-B is funded through a surcharge on end-users of telecommunications services. The CHCF-B surcharge has been in place since February 1, 1997.

To avoid double recovery of universal service support, Citizens and the other ILECs are required to reduce all of their rates, except for residential basic service, contracts, and coin-sent paid calls, by an equal percentage reduction (through a monthly surcredit to the customer's bill), in an amount that equals their anticipated monthly CHCF-B draws. Residential basic exchange service is excluded from the rate reduction because the CHCF-B supports this service in high cost areas. In addition, D.96-10-066, page 208, states: "If we were to reduce rates for basic service as well, this would widen, rather than narrow, the gap between residential rates and their costs."

D.98-09-039

In September 1998, the Commission issued D.98-09-039 implementing the CHCF-B program established by D.96-10-066. Specifically, the decision authorized Citizens and the other ILECs to commence their monthly draws from their accumulated CHCF-B surcharge revenues (CHCF-B draws) as of December 15, 1998. To offset the CHCF-B draws, the Commission, in Ordering Paragraph (OP) No. 1 of D.98-09-039, ordered Citizens and the other ILECs² to file an Advice Letter to implement a permanent surcredit (equal to their CHCF-B draws) beginning on December 1, 1998, based on the average of the company's approved monthly claims submitted to the CHCF-B fund for the twelve-month period ending July 31, 1998.

D.98-09-039 did not envision a "true up" of the "permanent surcredit" and took additional steps that make it clear that it did not envision the "true up" of the "provisional surcredit" either.

¹ The other ILECs are SBC (formerly Pacific Bell), Verizon California Inc. (formerly the merged GTE California Inc. and Contel Telephone Company), and Surewest Telephone Company (formerly Roseville Telephone Company).

² Only SBC implemented permanent rate reductions as a result of D.98-07-033, which allows the company to true up its rate reduction with its approved fund draws from the CHCF-B program.

ALTERNATE DRAFT

Indeed, the discussion in D.98-09-039 proceeds as follows:

Finally, the ACR proposed that there be no true up of Citizen's, GTE/Contel's, and Roseville's surcredits with their draws from the CHCF-B since their surcredits will be based on their actual CHCF-B draws for the 12-month period ending July 31, 1998.

Next, D.98-09-039 contains a short description of the parties' positions. None of these positions address the issue of a true up. Subsequently, D.98-09-039 continues:

We have carefully reviewed the ACR proposal to implement permanent rate reductions and parties' recommendations for modifying the proposal. Based on this review, we conclude that the ACR proposal, modified to reflect the parties' recommendations, is reasonable. Accordingly, we shall require Citizens, GTE/Contel and Roseville to file advice letters by September 21, 1998 to implement permanent surcredits beginning on December 1, 1998.

D.98-09-039 made allowance for the implementation of a provisional surcredit prior to the adoption of a permanent surcredit. In particular, D.98-09-039 states:

The CHCF-B Administrative Committee shall review the CHCF-B claims on which the surcredits will be based and report its findings to the Telecommunications Division. If material issues arise from the Committee's review of the CHCF-B claims, the permanent surcredits shall be implemented on a provisional basis beginning on December 1, 1998, and adjusted at a later date, if necessary, upon the resolution of these issues.

Even though D.98-09-039 contemplated the adoption of a "provisional surcredit," it took explicit steps to indicate that it did not permit the "true up" of the permanent surcredit and did not contemplate the "true up" of the provisional surcredit either. The decision proceeds to state:

There shall be *no true up* of Citizen's, GTE/Contel's and Roseville's permanent surcredits with their actual draws from the CHCF-B since their surcredits will be based on their approved CHCF-B draws for the 12-month period ending July 31, 1998.

ALTERNATE DRAFT

Then, the decision proceeds to eliminate balancing accounts, which are critical to the implementation of any true up, whether for the provisional or the permanent surcredit:

Since there will be *no true up* for these LECs, there is *no need* for them to *implement the true-up memorandum accounts ordered in D.96-10-066.*
[emphasis added]

We interpret the thrust of this discussion in D.98-09-039 as follows: The permanent surcredit would not be subject to true up, but a surcredit could be adopted on a provisional basis, consistent with OP No. 3, and changed later. Since D.98-09-039 eliminated all balancing accounts – which are commonly created to facilitate a “true up” – the decision clearly did not contemplate the “true up” of either the provisional or the permanent surcredit. Thus, the revised “permanent surcredit” would apply only on a “going forward” basis.

OP No. 20 of D.98-09-039 ordered Citizens and the other ILECs to file an AL to implement a temporary CHCF-B catch-up surcredit over three calendar months in accordance with the instructions issued by the Director of the Telecommunications Division (TD). These amounts were to amortize amounts owed to ILECs and the “catch up” amounts were to be collected subject to true up. In sharp contrast to D.98-09-039’s discussion of the permanent and provision surcredit, D.98-09-039 explicitly ordered the true up of this surcredit.

In implementing D.98-09-039, the initial surcredit rate was based on the estimated CHCF-B claims for the 12-month period ending July 1998, rather than the actual draw from the CHCF-B fund. As a consequence, the Commission ordered Citizens (in Resolution T-16239) to apply a provisional permanent surcredit.

Resolution T-16239

In compliance with OP No. 1 of D.98-09-039, Citizens filed AL No. 632 to apply a surcredit on intrastate billings to customers beginning December 1, 1998. The Commission, in Resolution T-16239, dated November 19, 1998, approved, on a provisional basis, Citizens’ CHCF-B surcredit rate of 3.07%, which was based on an estimated amount of Citizen’s CHCF-B claims from August 1997 through July 1998. The 3.07% provisional permanent surcredit (approximately \$1.241 million) reduces all intrastate rates, except for residential basic service, contracts, and coin-sent paid calls. This provisional surcredit was subject to CHCF-B AC review and approval, pursuant to OP No. 3 of D.98-09-039.

ALTERNATE DRAFT

Citizens' CHCF-B approved claims by the CHCF-B AC for the twelve-month period ending July 31, 2001 amounted to \$1,475,781.31 (or \$122,981.78 per month). As a result, the Director of the TD, by letter dated October 4, 2001, directed Citizens to file an AL no later than October 30, 2001 to reflect a true up of the provisional permanent rate reduction that was approved by Resolution T-16239, OP No. 1. In response, on October 24, 2001, Citizens filed AL No. 722 to true up the provisional surcredit rate of 3.07% to a new permanent surcredit of 3.66%. However, the 3.66% surcredit rate was later reduced to 2.58% in AL No. 722A, filed April 13, 2004, as a result of the updated (projected June 2004) billing base.

Resolution T-16532

In Resolution T-16532, dated June 14, 2001, the Commission approved Citizens' temporary three-month CHCF-B catch-up surcredit rate of 20.20% to offset the company's approved claims of \$2.280 million for the period February 1997 through August 1998. The catch-up surcredit rate of 20.20% applied to all intrastate services, except residential basic service, contracts, and coin-sent paid calls, and became effective for the period July 1, 2001 through September 30, 2001, and was in addition to the 3.07% provisional permanent surcredit rate relating to the CHCF-B claims. Among other things, Resolution T-16532 further ordered Citizens to do the following:

OP No. 4: Citizens shall track the catch-up surcredit rate reduction by establishing a memorandum account, entitled "Accounts Payable End-User Catch-Up Claim/Surcredit;"

OP No. 5: Citizens shall file an AL within 60 days from the end of the catch-up period, no later than November 29, 2001, to true up the catch-up surcredit; and

OP No. 6: Citizens shall include interest, based upon the average seven-day compound yield on taxable money market funds published in the Wall Street Journal, starting on the first day from the end of the catch-up period, or October 1, 2001, to the day of the start of the actual true up, if any;³

Pursuant to OP Nos. 4 and 5 of Resolution T-16532, Citizens tracked its temporary surcredit for three months through a memorandum account, and filed AL No. 732 on November 29, 2001 to true up the CHCF-B catch-up surcredit. However, AL No. 732 was further supplemented by AL Nos. 732A, 732B, and 732C, filed December 10, 2001, August 1, 2002, and April 13, 2004, respectively. In AL No. 732, Citizens requested to apply a 2.6% one-month surcharge to recover an over payment to customers amounting

³ OP No. 6 of Resolution T-16239 was adopted from OP No. 25 of D.98-09-039.

ALTERNATE DRAFT

to \$98,177 (including interest in accordance with OP No. 6 of Resolution T-16532). In AL No. 732A, Citizens included their Access Tariff which was inadvertently left out when it filed AL No. 732. In AL No. 732B, Citizens adjusted its calculation for the true up from 2.61% to 2.12% surcharge rate. Finally, in AL No. 732C, Citizens updated its one-month surcharge rate to 1.51% based on the projected billing base for July 2004 and an adjusted over payment of \$89,663 (per audit report), plus interest, pursuant to OP No. 6 of Resolution T-16532.

D.02-04-059

In D.02-04-059, issued April 22, 2002, the Commission adopted the three-month commercial paper rate issued by financial institutions (available at the Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments processed in the first payment cycle (which is May 1, 2002) after the effective date of the decision.

Public Utilities (PU) Code Section 274

Public Utilities Code Section 274 requires the Commission to conduct a compliance audit of program-related costs, including CHCF-B claims. The approval of Citizens claims from February 1997 through December 1999, including the catch-up period from February 1997 through September 1998, by the CHCF-B AC was subject to this audit requirement. If an audit determines that Citizens' claims should be lower than the catch-up amount of \$2.280 million, Citizens may be required by the CHCF-B AC to return the difference with interest to the CHCF-B fund. If, however, the audit reveals that Citizens' claims from the CHCF-B fund should be higher than the catch-up amount of \$2.280 million, Citizens cannot seek recovery from the ratepayers or the CHCF-B fund for the difference.

In compliance with PU Code Section 274, the Commission contracted with an auditing firm to audit Citizens' CHCF-B claims for the period February 1, 1997 through December 31, 2000, which included the catch-up period February 1997 through September 1998.

Notice/Protest

The notice of Citizens' AL No. 722 and its supplement A, were published in the Commission Daily Calendars of October 29, 2001 and April 19, 2004, and AL No. 732 and its supplements A, B, and C, were published in the Commission Daily Calendars of December 7, 2001, December 14, 2001, August 5, 2002, and April 19, 2004, respectively.

ALTERNATE DRAFT

Citizens indicated that they mailed a copy of the ALs to adjacent utilities and/or interested parties as requested. No protests have been received.

Discussion

Audit

In compliance with PU Code Section 274, the CHCF-B AC, on August 20, 2001, issued an Invitation for Bid (IFB) on an audit to verify whether the CHCF-B claims submitted by Citizens are in compliance with the Commission's decision for the period February 1, 1997 through December 31, 2000. In November 2001, an auditing firm was retained to perform the audit and the final report was submitted to the Commission in November 2002.

Among other things, the auditor's examination of the CHCF-B claims covering the period from February 1997 through December 2000, and including the catch-up period from February 1997 through September 1998, revealed that Citizens over claimed approximately \$13,205⁴ from the CHCF-B fund during the catch-up period from February 1997 through September 1998.

Interest

The rate of interest based on the average seven-day compound yield on taxable money market funds published in the Wall Street Journal each Thursday provided in OP No. 6 of Resolution T-16532 and OP No. 25 of D.98-09-039 was revised in D.02-04-059, issued April 22, 2002. In OP No. 7 of D.02-04-059, the Commission adopted the three-month commercial paper rate issued by financial institutions (available at Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments processed in the first payment cycle (which is May 1, 2002) after the effective date of the decision.

Citizens' Request to Make its Provisional Surcredit Permanent

In compliance with Resolution T-16239, OP No. 1, Citizens filed AL 722 and its supplements requesting to true up its CHCF-B provisional surcredit and implement a permanent surcredit rate of 2.58% based on the company's projected June 2004 billing base and the approved CHCF-B claims for the twelve-month period ending July 1998, amounting to \$1,475,718.31.

⁴ The audit revealed that Citizens over claimed from the CHCF-B fund, totaling \$13,205 (or \$695 per month) during the 19-month audit period from 2/97 through 8/98 due to inclusion of lines with identical names and addresses, amounting to \$1,534, and incorrect Federal offset amounts, amounting to \$11,671.

ALTERNATE DRAFT

The TD believes that the more appropriate billing base for permanent CHCF-B surcredit calculation should be the net billing base for the twelve-month period ending July 1998 (months for which the CHCF-B draws were made), pursuant to D.98-09-039. Thus, utilizing the net billing base for the twelve-month period ending July 1998 and Citizens' approved CHCF-B claim amount of \$1,475,718.31 (rounded to \$1.476 million) during the twelve-month period ending July 1998, adjusted by \$8,340⁵, the TD has calculated the permanent surcredit rate to be 3.63%. Therefore, the TD recommends that Citizens should implement a permanent surcredit rate of 3.63%.

TD's Recommendations on Permanent Surcredit

With respect to AL No. 722, the TD recommends that the Commission order Citizens to do the following: (1) file a supplement to AL No. 722 within five (5) business days from the effective date of this resolution, to reflect a permanent surcredit rate of 3.63% to apply on all intrastate customers' billings, except residential basic service, contracts, and coin-sent paid calls; (2) implement the 3.63% surcredit on the first day of the month following the resolution effective date; and (3) provide to the Director of TD for review and approval, within five (5) business days from the effective date of this resolution, a copy of the permanent surcredit customer notice explanation that will be in the free-form section of the customer bill.

True Up of Catch-Up Surcredit

In compliance with Resolution T-16532, OP No. 5, Citizens filed AL No. 732 and its supplements, requesting to true up its three-month temporary catch-up surcredit relating to CHCF-B to recover the over payment to its customers, amounting to \$89,663, plus interest. Further, Citizens proposes to implement a one-month CHCF-B surcharge of 1.51% based on its projected July 2004 billing base to recover such over payment.

TD believes that an adjustment of \$13,205⁶ should be made on Citizens' overpayment of \$89,663 to its customers, and the projected net billing base for December 2004 should be utilized in calculating the surcharge. In addition, TD believes that utilizing the projected net billing base for December 2004 is a more representative billing base at the time of surcharge implementation, and would result in a minor surcharge impact to customers. Thus, the basis of surcharge calculation should be \$76,458, plus interest, based upon the average seven-day compound yield on taxable market funds published in the Wall Street Journal, starting on the first day from the end of the catch-up period,

⁵ Of the over claimed CHCF-B amount of \$13,205 from the CHCF-B fund by Citizens during the audit period 2/97 through 8/98, \$8,340 (\$695 per month x 12 months) of which relate to the period from 8/97 to 7/98 (basis period for provisional permanent surcredit).

ALTERNATE DRAFT

or October 1, 2001, to the day of the actual true-up, totaling \$80,181, and the projected net billing base for December 2004. As a result, the TD has calculated the CHCF-B surcharge rate to be 1.72%. The surcharge rate should be implemented for one month.

Recommendation on True Up of Catch-Up Surcredit

With respect to AL No. 732, the alternate draft resolution recommends that the Commission require Citizens to complete the following: (1) supplement AL No. 732 within five (5) business days from the effective date of this resolution, to implement a CHCF-B surcharge rate of 1.72% for one month on all intrastate billings, except residential basic service, contract services, and coin-sent paid calls; (2) implement the 1.72% surcharge rate on the first day of the month following the resolution effective date; and (3) provide to the Director of TD for review and approval a copy of the surcharge customer notice explanation that will be in the free-form section of the customer bill within five (5) business days from the effective date of this resolution.

Adoption of TD and Alternate Draft Resolution Recommendations

In light of the above discussion, the Commission adopts the TD's recommendation for a permanent CHCF-B surcredit rate of 3.63% (AL No. 722) and alternate draft resolution recommendation for a 1.72% CHCF-B surcharge rate for one month (AL 732). The Commission believes that the recommendations as discussed in this resolution are appropriate and reasonable.

Comments

To be consistent with the Commission's commitment to utilize the Internet for distributing Commission orders and information, and in compliance with PU Code Section 311(g), copies of the Notice of Availability letter of the alternate draft resolution were e-mailed/mailed on January 26, 2005, to the parties that informed TD of their email address in order to continue to be on the service list of R.95-01-020/I.95-01-021, SBC, Verizon California Inc., SureWest Telephone Company, Cox California Telecom, LLC, AT&T Communications of California, MCI metro Access Transmission Services, LLC, and CHCF-B AC, informing parties that this alternate draft resolution is available for public viewing and comments at the Commission's website at: <http://www.cpuc.ca.gov/static/industry/telco/proceedings/resolutions/index.htm>. In addition, the TD informed these parties of the availability of the conformed resolution at the same website.

⁶ Citizens' over claimed amount, per audit report for the period 2/97 through 8/98 (basis period for temporary three-month catch-up surcredit).

ALTERNATE DRAFT

Comments that are filed timely will be addressed in this resolution.

Findings

1. Citizens Telecommunications Company of California (Citizens) filed Advice Letter (AL) No. 722 and its supplements to true up its CHCF-B provisional surcredit and implement a permanent CHCF-B surcredit rate.
2. Citizens' California High Cost Fund-B (CHCF-B) approved claims by the CHCF-B Administrative Committee (AC) during the twelve-month review period ending July 31, 1998 total \$1,475,781.31.
3. Among other things, an audit of Citizens' CHCF-B claims revealed that Citizens over claimed a total amount of \$13,205 (or \$695 per month) from the CHCF-B fund during the 19-month audit period from February 1997 through August 1998 due to inclusion of lines with identical names and addresses (\$1,534); and incorrect Federal offset amounts (\$11,671).
4. The appropriate billing base for Citizens' permanent CHCF-B surcredit calculation should be the net billing base for the twelve-month period ending July 1998 (months for which the CHCF-B draws were made), pursuant to Decision (D.) 98-09-039.
5. Citizens' approved CHCF-B claim amount of \$1,475,781.31 during the twelve-month period ending July 31, 1998 should be adjusted by the over claimed amount during that period, totaling \$8,340 (\$695 per month of over claimed amount x 12 months), as disclosed in the audit report, when computing the permanent surcredit.
6. The permanent CHCF-B surcredit calculation should be based on the net billing base and Citizens' approved CHCF-B claim amount (\$1,475,781.31) for the twelve-month period ending July 1998 less the over claimed amount of \$8,340 during that period as disclosed in the audit report.
7. Citizens' permanent CHCF-B surcredit rate should be 3.63%.
8. The interest based on the average seven-day compound yield on taxable money market funds published in the Wall Street Journal each Thursday, per OP No. 6 of Resolution T-16532 and OP No. 25 of Decision (D.) 98-09-039, was revised in D.02-04-059, issued April 22, 2002.

ALTERNATE DRAFT

9. The Commission, in D.02-04-059, OP No. 7, adopted the three-month commercial paper rate issued by financial institutions (available at Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments process in the first payment cycle (which is May 1, 2002).
10. Within five (5) business days from the effective date of this resolution, Citizens should file a supplement to AL No. 722 to reflect a permanent CHCF-B surcredit rate of 3.63% to apply on all intrastate billings, except residential basic service, contracts, and coin-sent paid calls.
11. Citizens should apply the 3.63% permanent CHCF-B surcredit rate on the first day of the month following the resolution effective date.
12. Citizens' proposal in AL 732 and its supplements to implement a surcharge rate on customers' bills for one month to true up the three-month temporary catch up surcredit is appropriate and reasonable.
13. An adjustment of \$13,205 (over claimed amount from the CHCF-B fund by Citizens as disclosed in the audit report) should be made on the total over payment to customers amounting to \$89,663 during the three-month catch-up period from July 1, 2001 through September 2001 to calculate the one-month surcharge.
14. The basis for surcharge calculation should be the projected net billing base for December 2004 (which is a more representative billing base at the time of surcharge implementation) and the adjusted over payment to customers during the three-month catch-up period from July 2001 through September 2001, plus interest totaling \$80,181.
15. The surcharge rate for one-month to true up the overpayment to customers during the three-month catch-up period should be 1.72%.
16. Within five (5) business days from the resolution effective date, Citizens should file a supplement to AL No. 732 to reflect a surcharge rate of 1.72% for one month on all intrastate billings, except residential basic service, contract services, and coin-sent paid calls. .
17. Citizens should implement the 1.72% surcharge rate for one month commencing on the first day of the month following the effective date of this resolution.

ALTERNATE DRAFT

18. Within five business days of the effective date of this resolution, Citizens should provide to the Director of TD for review and approval, a copy of the surcharge customer notice explanation that will be in the free-form section of the customer bill.

THEREFORE, IT IS ORDERED that:

1. Within five (5) business days from the effective date of this resolution, Citizens Telecommunications Company of California (Citizens) shall file a supplement to Advice Letter (AL) No. 722 to reflect a permanent CHCF-B surcredit rate of 3.63% to apply on all intrastate customers' billings, except residential basic service, contract services, and coin-sent paid calls.
2. Within five (5) business days from the effective date of this resolution, Citizens shall provide to the Director of the Telecommunications Division for review and approval¹, a copy of the customer notice explanation relating to the CHCF-B permanent surcredit that will be in the free-form section of the customer bill.
3. Citizens shall implement the CHCF-B permanent surcredit rate of 3.63% on the first day of the month following the resolution effective date.
4. Within five (5) business days from the effective date of this resolution, Citizens shall file a supplement to AL No. 732 to reflect a CHCF-B surcharge rate of 1.72% to apply on all intrastate billings, except residential basic service, contract services, and coin-sent paid calls.
5. Within five (5) business days from the effective date of this resolution, Citizens shall provide to the Director of TD for review and approval, a copy of the customer notice explanation of the one-month surcharge that will be in the free-form section of the customer bill.
6. The CHCF-B surcharge rate of 1.72% shall be implemented for one-month commencing on the first day of the month following the effective date of this resolution.

ALTERNATE DRAFT

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 10, 2005. The following Commissioners approved it:

STEVE LARSON
Executive Director